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SENATE BILL 328

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Cynthia Nava

AN ACT

RELATING TO PROCUREMENT; REQUIRING BIDDERS FOR PUBLIC WORKS
CONSTRUCTION PROJECTS FOR SCHOOL DISTRICTS AND SCHOOL BOARDS TO
SUBMIT PROOF WITH COMPETITIVE QUALIFICATIONS-BASED PROPOSALS OF
THE PROVISION OF MINIMUM WAGES AND MEDICAL BENEFIT PLANS AND OF
THE REQUIREMENT OF SUBSTANCE ABUSE CHECKS WITH RESPECT TO
EMPLOYEES OF THE BIDDER AND ITS SUBCONTRACTORS; DECLARING AN
EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 13-1-111 NMSA 1978 (being Laws 1984,
Chapter 65, Section 84, as amended) is amended to read:

"13-1-111. COMPETITIVE SEALED PROPOSALS--CONDITIONS FOR
USE.--

A. Except as provided in Subsection G of Section
13-1-119.1 NMSA 1978, when a state agency or a local public
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1 body is procuring professional services or a design and build
2 project delivery system, or when the state purchasing agent, a
3 central purchasing office or a designee of either officer makes
4 a written determination that the use of competitive sealed
5 bidding for items of tangible personal property or services
6 either is [~~either~~] not practicable or not advantageous to the
7 state agency or a local public body, a procurement shall be
8 effected by competitive sealed proposals.

9 B. Competitive sealed proposals may also be used
10 for contracts for construction and facility maintenance,
11 service and repairs.

12 C. Competitive sealed proposals may also be used
13 for construction manager at risk contracts if a three-step
14 selection procedure is used pursuant to the Educational
15 Facility Construction Manager At Risk Act.

16 D. Competitive qualifications-based proposals shall
17 be used for procurement of professional services of architects,
18 engineers, landscape architects, construction managers and
19 surveyors who submit proposals pursuant to Sections 13-1-120
20 through 13-1-124 NMSA 1978.

21 E. Competitive sealed proposals shall also be used
22 for contracts for the design and installation of measures the
23 primary purpose of which is to conserve natural resources,
24 including guaranteed utility savings contracts entered into
25 pursuant to the Public Facility Energy Efficiency and Water

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1 Conservation Act.

2 F. A bidder for a public works construction project
3 exceeding one hundred twenty-five thousand dollars (\$125,000)
4 for a school district or a local school board that submits a
5 competitive qualifications-based proposal to that school
6 district or local school board, and whose proposal is not
7 solely for professional services, shall submit with that
8 proposal:

9 (1) proof that the bidder:

10 (a) provides wages to its employees in
11 accordance with the Public Works Minimum Wage Act;

12 (b) makes medical benefits plans
13 available to its employees;

14 (c) legally and contractually requires
15 its employees to submit to substance abuse tests as a condition
16 of employment; and

17 (d) prohibits the presence on the job
18 site of employees who fail a substance abuse test until they
19 have passed a subsequent substance abuse test; and

20 (2) proof that each subcontractor under
21 contract to the bidder that will perform work or labor or
22 render service to the bidder for that public works construction
23 project:

24 (a) provides wages to that
25 subcontractor's employees in accordance with the Public Works

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Minimum Wage Act;

(b) makes medical benefit plans available to that subcontractor's employees;

(c) legally and contractually requires that subcontractor's employees submit to substance abuse tests as a condition of employment; and

(d) prohibits the presence on the job site of employees who fail a substance abuse test until they have passed a subsequent substance abuse test."

Section 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.